UNIVERSITY GUARDIAN

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Real Earnings Drop Again
It's Time for a Catch-up Increase

President's Corner

What UC-AFT is Doing

The University Council-AFT was formed five years ago in response to the crisis in higher education which erupted during the Reagan era and which seems now to be permanently with us. We thought then that the concerns of UC faculty and staff — quality education, faculty governance, due process in tenure and promotion decisions, fair pay and decent teaching conditions — could only be served by self-organization. Had we been stronger, of course, we undoubtedly would have accomplished more in the past five years. But what we have accomplished has derived from the fact that we are independent of the University's structure, that we are an independent voice and that we have built up an independent capability for representing faculty and staff both within the University and in Sacramento.

The contents of this issue of the *Guardian* reveal better than anything I can say the kind of work the University Council is doing. For two years now we have been working to open up the confidential system of faculty and academic staff evaluation. The AFT understands as well as do deans and vice-chancellors the necessity for frank and honest assessments, but believes equally in the rights of the individual to due process. The AFT does not consider these to be irreconcilable claims: it is entirely feasible to maintain confidentiality as to *source* while making *texts* of all materials available to the individual.

The recent announcement of President Saxon on the University's desire voluntarily to abide the Governor Brown's Executive Order on access to the files of state agencies is the direct result of our successful efforts to have included in the Roberti Bill (SB 1586) language incorporating the principle I have just stated. We are skeptical that the University intends to abide by the agreement it reached with us on that language. If it does not, we are prepared to go back to Sacramento in the next session.

Salaries are another issue of primary concern to the University Council. UC has fallen short of other state agencies consistently in the past eight years, and faculty and staff have lost real income averaging 12.6 per cent since July 1969. We have done so poorly because the UC administration has done an inadequate job of representing us, and we intend now to take the faculty's case directly to Sacramento.

Conflict of interest issue also is of current concern to the AFT. We were the first to call attention to the loopholes in the Unviersity's proposed code, and, while we believe that safeguards are needed to protect academic freedom, we also believe that the real and potential abuses within the University require external regulation and scrutiny; the University will not police itself. And we are closely watching other developing problems — such as the University's contemplated policy of shifting tenured faculty over lecturer status.

A word also should be said about an unpublicized part of our work that is probably more immediately useful than anything else we do, namely, the help we give individual staff and faculty who have grievances. For the assistant professor in tenure trouble, for the librarian with a difficult supervisor, or denied a promotion or merit increase and for anyone else who feels himself being victimized, there is literally no place to turn but the AFT. On my own campus assistant professors regularly come to us when they sense trouble ahead; and we have always gone to bat for anyone — member or not — whom we feel is not getting a fair shake. (This is, of course, partly why we have taken on open files as a major issue.)

Our active locals have developed a real capability in this area. We know the Administrative Manual, we are experienced in the ways the system operates, and we are prepared to give advice and, if necessary, representation. In tough cases, we have a full-time, highly experienced excutive secretary at our Berkeley office, and, if the worst come to the worst, we have access to a major law firm on a retainer basis. And we do believe that, where we have been active in grievance matters, performance on personnel matters has visibly improved — for the good reason that people think twice about bending the rules or following their prejudices when they know they may not get away with it.

By these activities, we are filling a real and immediate need within the University. But, in the long run, the significance of our work is that it lays the groundwork for the day when our employment condition will be governed by some form of collective bargaining. Although the failure of the public employee collective-bargaining bill in the Legislature last year has put that day off, it seems highly unlikely that California will not join the nation-wide trend toward collective bargaining in public higher education. And when that time comes, it will have been due to us that the UC faculty and academic staff will not be wholly unprepared to function effectively in a collective bargaining system.

Those among you sympathetic to our goals and activity ought to join UC-AFT. We need your active participation and support.

— David Brody
President, University Council-AFT
Professor of History, UC Davis

The University Council is proposing a 12.5 percent pay increase for UC faculty and academic staff in 1977-78. This is about double President Saxon's recommendation for 6.77 percent.

In addition, we ask for UC to pay the full cost of health insurance, including family coverage, for a start to be made toward similar coverage of dental insurance, and for further reductions in employee retirement contributions. This year the UC administration is not asking for any increase in benefits.

The basis for the UC-AFT salary proposal is that faculty and academic staff have been harder hit by a loss of real earnings than any other group of California public employees, and a catch-up increase is needed.

Cost of Living is Criterion

We calculate that from July 1969 (the point of highest real earnings) to July 1976 professorial rank salaries have declined 12.6 percent in buying power *after* the July 1976 across the board increase went into effect. By July 1977, and assuming a 6 percent rate of inflation, UC salaries will have lost 19.4 percent of their buying power.

We are proposing a two step policy to restore earning power to the 1969 level: 12.5 percent in July 1977 and, depending on the extent of inflation during the next academic year, whatever is necessary in July 1978 to achieve this goal.

Our approach, quite frankly, is a break with the practice of basing UC salary recommendations on a comparison with other leading universities. For the past two years the California Postsecondary Education Commission, which develops a salary recommendation methodology for UC and the state university system, has added an inflation factor to the methodology of comparing UC salaries to those in other leading universities.

The problem is that CPEC ignores the past effects of inflation and concern itself only with the coming year. The inflation formula, which is manipulated each year so that it will yield a recommendation equal to the anticipated cost of living increase, gives us no hope of regaining the loss of real income since 1969.

Misleading Averages

We also object to the use of average salaries in the calculations because the average is a weighted average of the numbers in each faculty rank, and the number of senior persons has increased substantially in recent years. This pushed the weighted average salary up faster than the average in each rank.

Moreover, average salaries include merit increases. In a system where, typically, a person starts at the bottom rank and moves up the scale not by automatic step increases but by earned merit increases, the calculations should be based on what, for example, a full professor I made in July 1969 and what a person in the same rank receives this year. It is improper to use that part of the increase in average salaries which results from merit increases in the calculation.

Approached in this way we get a truer picture of what inflation has done to UC salaries. Thus, the real earnings of a starting assistant professor in July 1976 are 8.6 percent below what a person in the same rank made 8 years ago. If you are an associate professor I today, you are 10.72 percent behind, while a professor I position has lost 15.6 percent, and the decline for a starting lecturer's salary is 11.7 percent. Non-Senate academics have expreienced a similar loss in real earnings.

The Politics of Pay Increases

Inflation at the rate of at least 5 to 6 percent a year is becoming a fact of life. At the same time there is increasing pressure to force public employees to absorb part of the higher costs of government. In effect this erodes their real earnings and adds up to an in-

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UC Cuts Christmas, New Year Holidays

Except for faculty, almost all other UC academic staff have 11 month appointments, and the UC policy on paid holidays is relevant.

This year Christmas and New Year's day fall on a Saturday, and, according to the UC holiday schedule, affected staff will lose 2 days off.

It works this way. Normally, if these holidays fall on a regular working day, a person will receive Christmas and New Years's day off as well as the preceding days. These are part of the 11 paid holidays which most UC staff receive.

However, this year, because they fall on Saturdays, neither of the preceding days are scheduled as holidays. This is because Section 400.4 of the Staff Personnel Manual, where the holiday policy is set forth, says: "When a holiday falls on a Saturday, neither that day nor any other day is observed as a holiday."

Even though unfair, the rule seems clear enough. Except a similar situation occurred in 1970 and 1971. And as a result of widespread protest, the equivalent days off for July 4, 1970 and Christmas day 1971, both of which fell on Saturdays, were given.

UC-AFT will join other groups representing non-academic staff to restore the holidays this year and to change the policy to guarantee the time off even if a holiday falls on a Saturday.

Will UC Honor Commitment Despite Open Files Bill Veto?

By Sam Bottone

In the *University Bulletin* of November 1, President Saxon announced that the University intended to abide voluntarily by the principles laid down in Governor Brown's Executive Order, B-22-76, dated September 30, 1976, ordering state agencies to guarantee all individuals access to files maintained on them by state agencies, "with necessary modifications to reflect considerations unique to the University (as, for example, in connection with records pertaining to the academic personnel review process) . . . ."

This is the latest development — but by no means the final step — in the AFT's struggle to win effective protection of the rights of individual faculty members in the evaluation process involving retention and promotion at the University of California.

When Senators David Roberti (D-Hollywood) and Dennis Carpenter (R-Newport Beach) introduced SB 1586 this year, we saw in it an opportunity to gain open files within the University.

SB 1586, the Public Information Act of 1976, was a bill to enable individuals to know what records state agencies had on them, to restrict such records to what was necessary and relevant to accomplish the purposes of the agencies as required or authorized by law, and to enable individuals to gain access to records pertaining to the individual.

UC Agrees to Open Files

We were able to work out, after protracted negotiations with representatives of the UC administration, the state-wide Academic Senate, and Governor Brown's staff, acceptable language on the confidentiality issue that would cover the University of California.

The key provision in SB 1586 pertaining to confidentiality was the following:

If information, including letters of recommendation, compiled for the purpose of determining suitability, eligibility, or qualifications for employment, advancement, renewal of appointment or promotion, or for the receipt of state contracts, was received with the promise or, prior to July 1, 1977, with the understanding that the identity of the source of the information would be held in confidence and such source is not in a supervisory position with respect to the individual to whom the record pertains, the agency shall provide a copy of the text of such material with only such deletions as are necessary to protect the identity of the source or, if that is not a practicable means of protecting the identity, a detailed and comprehensive statement of the full substance of the text of such confidential material. In institutions of higher education, "supervisory positions" shall not be deemed to include chairpersons of academic departments.

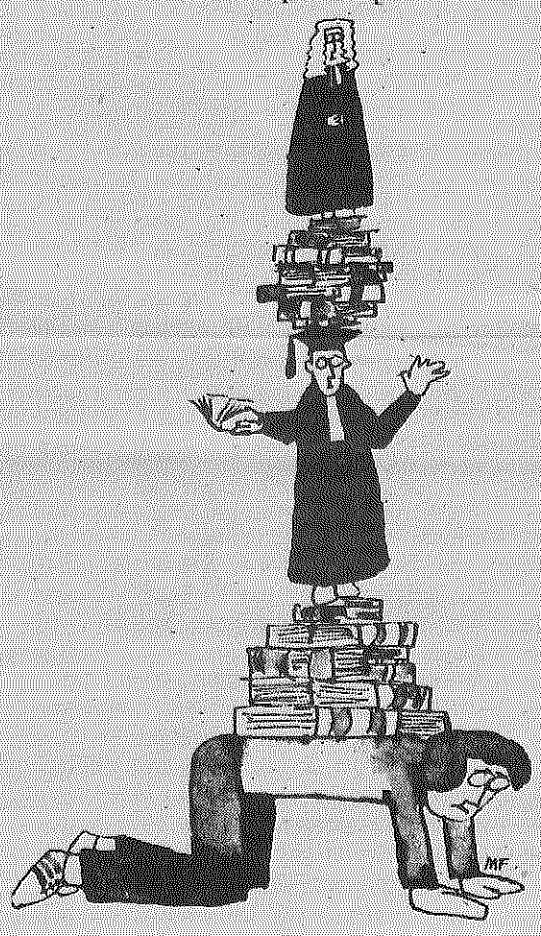
Civil Liberties Too Costly

The Governor's Executive Order was issued in an attempt to offset criticism of his second veto of a privacy bill, especially since SB 1586 as it emerged from the legislative process was substantially modified to accommodate to the objections in last year's veto of former Senator George Moscone's bill. But once again, the costs were too high, according to Governor Brown.

Great pressure was brought to bear on the Governor by the American Civil Liberties Union, the bill's main sponsor. While it was not enough to get it signed, he did issue an executive order covering state executive agencies; UC, because of its constitutional status, could not be included.

After receiving an analysis of the Executive Order by the Legislative Counsel, Senator Roberti called the Order "virtually worthless." It covers only executive branch agencies, and there is no protection of individuals from unauthorized or unlawful release of information, and it can be changed or revoked at any time by the Governor without legislative involvement.

Furthermore, there is no easy way an individual may find out which records an agency maintains. Under SB 1586 the Secretary of State publishes a directory of records systems as one of key the ways to implement the access policy; the Order does not have a comparable practice.



What emerged is a state policy enacted without public hearings or legislative participation. It leaves to state agencies the enforcement of a policy which is designed to control the actions of these same agencies. All this in the name of lowered expectations.

The Brown Game

Last year the ACLU called the veto of the Moscone bill "a subversion of the legislative process" because the Governor refused to make his views known while the bill moved through the Legislature, and when there was time to possibly amend it to accommodate to the Governor's views.

And the same happened this year. During the last days of the legislative session, Senator David Roberti made repeated efforts to find out if this bill was acceptable, and, if not, what changes Governor Brown wanted. But there was no response.

The most outrageous part of the way the Governor conducts business is that he had his own bill introduced last spring, AB 4014, carried by Assemblyman Vic Fazio. Afterwards the Roberti bill was amended to be virtually identical to the Fazio bill, which died in the Senate.

The Governor's legislative aides, when querried why the Roberti bill did not have the Governor's support, replied that if Fazio's bill had been on his desk it would not have had any greater chance of being signed.

Government by Executive Fiat

On top of what may be said about the reasons for the veto, the most dangerous thing the Governor did was to issue the Executive Order as an instrument for setting government policy. An executive order is a proper means whereby the Governor directs state agencies on how to implement policies established by law. It has slightly less propriety when it moves into an area where the Legislature has not or has refused to act. But when the Governor vetoes a bill because he doesn't like either the policies or the procedural direction the Legislature decides upon, and issues an executive order to carry out only that part of the policy he likes, then this is subversion of the legislative process. Although a governor has the Constitutional power to veto line items in the budget, this authority does not extend to general legislation.

To the dangers of the imperial presidency, we have an imperial governor.

While the veto message played up the cost angle, Brown in press interviews charged that SB 1586 would put us closer to "Big Brother" because it would have placed all records in a central location.

This is patent nonsense and it makes you wonder whether Brown understood anything about the bill aside from the alleged costs. All that was required was that state agencies inform the Secretary of State of the type of records on individuals which are maintained and this listing would have been published in an annual directory. The records themselves would have been retained by the agency.

Dirty Pool

The most galling of Brown's statements was the charge that it was a weak bill because it excluded the Legislature, police agencies and the Attorney Gen.'s office. The police and Attorney General exclusions were painful decisions for the ACLU but were made to get the bill past difficult committees.

However, the Brown Administration did nothing to support the ACLU whose position was weakened because the administration's own bill already excluded these agencies. And these agencies are also excluded from the Executive Order. The Legislature was excluded because a bill was passed last year which opened access to Legislature files on individuals, but Brown didn't know this.

Even the cost objection does not make sense. Brown said the bill would cost $4 million in the first year and $13 million in subsequent years. However, these figures are highly suspicious. There is no reason why the state agency cost estimates should be taken at face value.

The main opposition came from state agency bureaucrats who obviously would have a bias toward submitting bloated cost figures since they could not oppose the bill on its merits. For example, UC administration last spring said it would cost between $5 and $11 million a year just for UC.

The Finance Department conclusion was that while there would be substantial costs (based on agency figures), these would be offset to an extent by substantial savings resulting from the elimination of nonlegal and duplicate records.

Honoring A Commitment

In his statement in the *University Bulletin*, President Saxon claimed that UC's policies and practices concerning maintenance and access to records are "substantially consistant with the philosophy of the Executive Order in most categories of records we maintain." This is true, primarily because the California Public Records Act requires it; except this Act does not apply to confidential material in personnel records.

President Saxon's commitment to change is, however, vague: "to see that our policies and practices in this broad area are examined systematically and that needed modifications are put into effect . . . . In due course suitable adaptations of it [E.O.], with necessary modifications to reflect considerations unique to the University (as, for example, in connection with records pertaining to the academic personnel review process) will be issued as University policy."

The last time President Saxon promised such a review, the committee headed by UCSC Chancellor Angus Taylor came up with a warmed over version of present practices. As a result UC-AFT had to support legislation to protect the rights of individuals. This time, the UC administration and Academic Council agreed to a policy on confidential files which was incorporated into SB 1586 and we expect that this commitment will be honored. If this commitment is not honored, then it will once again demonstrate the need for legislative action.

MEMBERSHIP APPLICATION

UNIVERSITY COUNCIL

AMERICAN FEDERATION of TEACHERS

The Union for University of California Faculty, and Academic Staff

I wish to join the University Council-AFT.

UC-AFT dues are ¾ of 1% of UC salary; a minimum of $4.00 a month and a maximum of $15.00 a month.

Name _____

Campus _____

Department _____

Rank _____ Date _____

Home Address _____

City _____ Zip Code _____

Signature _____

Return to: **University Council — AFT**
2527 Dwight Way, Berkeley, Ca. 94704

Conflict of Interest Code and Academic Freedom

The Political Reform Act of 1974 (Prop. 9) requires that all state and local government agencies adopt a conflict of interest code in order that "no public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest."

In July 1976, the Regents adopted such a code which must be approved by the Fair Political Practices Commission. In public testimony before General Counsel Donald Reidhaar, the draft Code was criticized from two directions.

UC-AFT charged that the Code was full of loopholes. We pointed out, for example, that Regents sitting on the Committee on Investments who decide how UC's $1.5 billion portfolio is invested would not be required to disclose their own investments and could participate in investment decisions involving securities they also own. Another loophole limited reporting on real estate holdings only to property located within one mile of a UC campus or facility.

Prof. Stephen Barnett of the Berkeley Law School and chairperson of the statewide and Berkeley Committees on Academic Freedom argued that the University is not a "state agency" and should not be required, as a matter of law, to adopt a Code. He also criticised declaring it a conflict of interest for a faculty person to assign a textbook which the person authored.

To define assigning of one's own books to a class as a conflict of interest is so strained an application of the law that it makes one wonder whether the General Counsel's office was trying to discredit the very concept of conflict of interest. We discussed this provision with the FPPC prior to the Regents meeting last July, and the FPPC staff was astounded that anyone would make such an interpretation.

Since the Regents' meeting Prof. Barnett, as chairperson of the statewide Committee on Academic Freedom, has prepared a lengthy and carefully researched document arguing that the application of a conflict of interest code for the Unviersity, as required by the Political Reform Act, constitutes "a permanent threat to academic freedom and to the necessary independence of the University."

Barnett argues that a faculty member who seeks an outside grant from which the person receives income could be considered to be in a conflict of interest, that is, using one's official position to influence a governmental decision in which a person has a financial interest.

If this were to happen, or if there appeared to be a reasonable likelihood that the FPPC would write regulations imposing such a code application on the University, then there would be a serious threat to academic freedom. There is, however, no evidence of this, only the speculation that the FPPC might, at some time in the future, make such an interpretation. This seems like an awfully shakey premise from which to launch a major effort to exclude UC from coverage under the Act, and the issues of public policy it would raise.

We print below the statement by Prof. Charles Schwartz responding to both the potential threat to academic freedom and the public policy considerations. The issue is not that there may be a threat from the FPPC, for that cannot be exluded, but how best to meet it if it arises.

The statewide Committee on Academic Freedom is circulating a statement to each division of the Academic Senate and to the Academic Council urging support for the position that the University should not be considered a "state agency" within the meaning and purposes of the Political Reform Act of 197.

The position that UC is not a "state agency" under the Act is totally without merit. In order to argue that it is an open question and there is an "even chance" of prevailing in a court test, Prof. Barnett had to cut and trim more than lawyers usually do in constructing a legal case.

Interestingly, General Counsel Reidhaar is firmly on the other side, arguing that UC is a state agency. It would be difficult for him to argue otherwise because the University has taken this position in court innumerable times when "state agency" was defined similar to the way it is in the Political Reform Act.

Prof. Barnett argues that the definition of "state agency" in the Act does not cover the University. Section 82049 states: "State agency means every state office, department, division, bureau, board, and commission, the Legislature . . ." UC does not fit under any one of these categories, and since it is not mentioned specifically, it is not covered.

But is not the University a "board?" Prof. Barnett denied this and even at one point in a carefully researched memorandum to Regent William French Smith on August 16, 1976 refers to the California Constitution on the autonomy of the University. He quotes the first sentence of Article IX, Section 9(a) about the Unviersity being a "public trust . . . administered by the existing corporation known as 'The Regents of the University of California' . . .", stops there and then quotes from another subsection of the Article.

The next sentence in Section 9(a) which was not quoted states: "Said corporation shall be in form a *board* composed of . . ." (italics added). There would be further difficulty arguing that the University is not a "board" since the Standing Orders of the Regents repeatedly refers to "The Board of Regents."

It would be a mistake for the faculty to get caught up in a futile, and politically hazardous court battle over whether the 'University is a state agency. The concern at this time ought to be that the UC code is so full of loopholes that legitimate controls over financial dealings by the Regents and top administrative officials may not be exercised.

This statement by Prof. Charles Schwartz on application of the Political Reform Act of 1974 to the University was sent to Prof. Stephen Barnett, chairperson of the UCB Academic Freedom Committee, Prof. Karl Pister, chairperson, UCB Senate Policy Committee and Prof. William Fretter, chairperson, Academic Council on October 31, 1976.

* * *

By Charles Schwartz, Department of Physics, UCB

I believe it would be *a serious mistake* for the faculty to follow the path indicated in the October 25 report of the Academic Freedom Committee to the Representative Assembly (Berkeley Division of the Academic Senate) at its November 9, 1976, scheduled meeting. That recommendation, is that "We oppose application of this act to the University and we urge all interested persons to take appropriate steps to resist such application." The indicated step is a legal suit claiming that the University is not covered by this act.

In what follows I shall briefly present my reasoning for this belief and I shall also propose *an alternative plan of action,* one which I believe can allow the faculty to best meet its obligations to the people of California (as expressed in the Act) while still maintaining the strongest protection for academic freedom. I am of course, ready to discuss these matters further with you whenever you may so desire.

A. A Lack of Perspective

The potential threats to academic freedom which Prof. Barnett finds in this Act are certainly deserving of our concern, regardless of differing opinions on how real or imminent those threats may be. However, Barnett views these as isolated problems for us (the U.C. faculty) without putting the issues in their proper political context; and he dwells too much on legal technicalities in his search for a solution. Consider the following points.

1. The potential threats to academic freedom which are cited apply as well to teachers in the state colleges and throughout the public school system. (They also write textbooks, assign textbooks, apply for grants, serve on committees.) They are all subject to the Act and the regulation of the Fair Political Practices Commission; and their academic freedom is certainly as worthy of protection as ours. The only thing unique about the University of California is its Constitutional status, which opens the door for a possible legal challenge as Barnett discusses.

2. Academic freedom and the autonomy of educational functions from political interference are not things gauranteed by any law; they exist only so far as teachers act to defend these principles and as the citizens of the state believe that such freedoms truly do serve the general welfare.

3. Therefore, if any real threat to academic freedom should materialize from the Political Reform Act, it should be fought by all teachers united across the state; and I would like to see UC faculty in the lead, defending academic freedom for real, rather than having been excused from this ordeal because of a legal technicality.

4. More importantly, if the University should seek legal exemption from the Act, we run the grave risk of losing just that kind of public respect and support upon which our own academic freedom rests. To appreciate this point remember the following:

5. The Act, Proposition 9 on the June 1974 ballot, received overwhelming voter support, arriving just at the apex of the Watergate revelations. Whatever objections some may have to this law (and there is plenty to criticize in it) the major features — campaign reform, regulation of lobbyists, conflict of interest prohibitions and financial disclosure — have become established practice in the political fabric of California. It simply will not wash for the University to claim that it is aloof, apolitical and above public scrutiny: we are just too big, our budget is just too enormous, our influence is just too pervasive, and there are just too many scandals rattling around in our closet.

6. Probably the major fault in Prof. Barnett's analysis is his failure to consider the fiscal authority and financial responsibility of the University as distinguished from its educational authority. The fiscal matters (managed primarily by the Regents and top administration) surely should be subject to meaningful strictures against conflict of interest. The academic matters (managed primarily by the faculty) should certainly be given the greatest possible protection from political intereference.

These two aspects of the university (the fiscal and the academic) naturally do overlap but the basis of academic freedom is to maintain their separation as much as possible. *If we should allow the cloak of academic freedom to serve as a cover over legitimate concerns for fiscal responsibility, then we have damaged it enormously.*

7. Prof. Barnett suggests that the Regents could voluntarily adopt a conflict of interest code without submitting to the authority of this act. I think this is naive in the extreme. Nowhere is the University's conflict of interest problem more acute than with (numerous members of) the Board of Regents itself. Proposition 9 states at the very outset: "Public officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial interests . . ." And we know that, historically, the University Board of Regents has been the private playground of the wealthiest families in the state.

The draft conflict of interest code issued last summer by the University has already been criticized as being wholly inadequate in its disclosure requirements for the Regents and top administrators; and several persons, myself among them, are planning to challenge this draft code before the FPPC. Any Code over the Regents will have to have outside enforcement if it is to be respected. (As long as I am knocking the Regents, I should remark that the most severe attacks upon academic freedom have come, historically, from the Regents themselves. University autonomy protects them, not us.)

8. One of the possible scenarios discussed by Prof. Barnett is legislative action to provide specific conflict of interest coverage for the University. This might work; but it might also open up new dangers for intrusion into academic affairs. In either case, I believe that the alternative I will outline below allows greater flexibility and safeguards for the defense of academic freedom.

(Continued on page 4)

Resolution of the Committee on Academic Freedom to the Representative Assembly:

We believe that treatment of the University as a "state agency" under the Political Reform Act of 1974 would constitute a continuing threat to academic freedom in the University and to the independence of the University from outside intervention in its academic processes. We accept the principle that the University should have a conflict of interest code but we believe that such a code, at least in so far as it may affect academic functions, should be devised and enforced by the Unviersity itself and not by outside authority. We are advised that there is a substantial possibility the courts would decide that the University is not a "state agency" under this act. We oppose application of this act to the University and we urge all interested persons to take appropriate steps to resist such application.

Conflict of Interest Code No Threat to Academic Freedom

(Continued from page 3)

B. An Alternative Approach

Barnett has quoted portions of the Act which may allow any "resident of the jurisdiction" to take action toward amending or enforcing an agency's conflict of interest code. It is very reassuring to discover that the act also provides potent measures by which employees of the agency may act to protect their own rights; (Sections 87308, 87309 of the Government Code):

87308. Judicial review of any action of a code reviewing body under this chapter may be sought by the agency, by an officer, employee member or consultant of the agency, or by a resident of the jurisdiction.

87309. No Conflict of Interest Code or amendment shall be approved by the code reviewing body or upheld by a court if it:

(a) Fails to provide reasonable assurance that all foreseeable potential conflict of interest situations will be disclosed or prevented;

(b) Fails to provide to each affected person a clear and specific statement of his duties under the Code; or

(c) Fails to adequately differentiate between designated employees with different powers and responsibilities.

With this background, I would suggest that the best apporach would be for the University to follow the procedures of the Act, with the faculty involving itself in this process to secure maximum protection for academic freedom within the explicit structure of the University's Conflict of Interest Code, retaining the option to fight in court *on any particular case* where a *real* threat to academic freedom might become manifest.

Prof. Barnett argues that it would be a dangerous precedence for the University to submit to this act because we ought to "preserve the principle that the University is not a 'state agency' within the language of laws generally but must be expressly included to be covered."

I think there is no such principle in fact: while the University has challenged coverage by some laws it has accepted coverage of many general laws that do not name UC explicitly. (California Public Records Act; affirmative action statutes; meet and confer legislation; environmental protection law; occupational safety and health law; etc.) Furthermore, I believe that the University has consistently taken the position, in Sacramento, that it does not want to be uniquely written in or written out of specific bills.

Finally, I should repeat that I do not dismiss the possible threats to academic freedom which Prof. Barnett has raised. They may indeed become serious matters at some future time. I chiefly believe that his suggested remedy — a broad legal challenge to UC's coverage under the act — is unwise both in large terms (the public's legitimate wishes as expressed in the passage of Prop. 9) and in our own particular terms (the protection of academic freedom).

My suggestion for a Senate Resolution would do the following:

1. Recognize the possible threats to academic freedom brought forward;

2. Recognize, equally, the legitimate right of the people of the state to require UC to have and live up to a Code that fulfills the objectives of Prop 9;

3. Emphasize the distinction between fiscal and administrative functions within the University, on the one hand, and strictly academic functions, on the other hand; and urge that any code must carefully divide these;

4. Direct appropriate bodies of the Senate to carry these ideas forcefully to the UC administration and to the FPPC;

5. Call for continued vigilance as these questions evolve; with some committee directed to advise the Senate whenever some palpable threat to academic freedom might warrant recourse to legal action.

UNIVERSITY OF CALIFORNIA
Loss of Real Earnings, July 1969 to July 1976 and Salary Increases Needed in July 1977 to Restore Real Earnings to July 1969 Level

Rank (Step I)	Year	Salary	Loss of Real Earnings, July 1976*	July 1977 Increase Needed to Restore Real Earnings**
Assistant Professor	July 1969	$10,200		
	July 1976	14,500	8.6%	15.1%
Associate Professor	July 1969	12,900		
	July 1976	18,000	10.7%	17.3%
Professor	July 1969	16,100		
	July 1976	21,500	15.6%	22.5%
Instructor	July 1969	8,800		
	July 1976	12,300	10.4%	17.0%
Lecturer	July 1969	9,612		
	July 1976	13,284	11.7%	18.4%
Associate	July 1969	7,152		
	July 1976	10,092	9.4%	15.9%
Acting Assistant Professor	July 1969	9,696		
	July 1976	13,808	8.4%	14.9%
Supervisors of Physical Education	July 1969	14,300		
	July 1976	19,900	11.0%	17.6%
Specialist	July 1969	16,660		
	July 1976	21,108	21.9%	29.1%
Coordinator of Public Programs	July 1969	16,500		
	July 1976	22,240	14.6%	21.4%
Cooperative Extension Specialist	July 1969	16,500		
	July 1976	21,700	17.4%	24.4%
Supervisor of Education VI (10th year)	July 1969	13,752		
	July 1976	18,648	13.9%	20.6%
AVERAGE***			12.6%	19.4%

*Increases in the U.S. COnsumer Price Index July 1969 to July 1976, 54.4 percent.
**Assumes 6 percent CPI increase from July 1976 to July 1977.
***Average includes only professor, associate professor, assistant professor and instructor ranks calculated as a weighted average of 1976-77 faculty staffing. Data is not available for staffing in the other academic ranks.

Real Earnings Drop Again

(Continued from page 1)

crease in the taxes paid by public employees to subsidize other sectors of the economy.

Adhering to a salary methodology that changes each year and still does not seek to catch up with the affects of inflation is a deliberate decision by UC administration.

The truth of the matter is that the higer education salary methodology is in shambles; the CPEC modifies the method each year, the state university Trustees discarded it the past two years and came in with higher proposals, and Governor Brown's approach is to propose as little as possible. But UC hangs in there.

The reason for this, it has been often stated by UC representatives, is a matter of political judgment. They believe that higher salaries and benefits will come out of funding for instruction and research programs. In effect, they are saying there is a pie of a certain size and it's all a matter of how it is divided. UC employees are, therefore, subsidizing the University, and have become involuntary philanthropists.

UC on the Defensive

Not only does the UC administration not make the case for improved economic benefits, but by adhering to the comparability approach, UC is placed in a defensive position. UC argues that the criterion for salaries and benefits is comparability with a group of eight leading universities with whom we compete for faculty and staff.

In turn the Brown administration, and Reagan's before, retort: "well, if we give you a few percent less than comparaibility, does this mean faculty (as labor market theory would have it) will leave and go elsewhere?" Of course not, since the labor market in higher education doesn't work that way, especially when jobs are relatively scarce.

Therefore, comparability can hardly be treated as a compelling argument in Sacramento. Without equity as the basic criterion, without maintenance of real earnings as a minimum goal, the logic can only be to give as little as possible. And this is the reason why UC has been receiving the smallest increases of any state employees, and the loss of real earnings is the greatest.

UC-AFT intends to make a major issue of salaries and benefits this year in Sacramento. It is time that legislators and Governor Brown become aware of the issue of equity and how inflation has affected UC staff. And this dismal record on compensation should further underline what we have been saying all along: namely, that the UC administration cannot be expected to be an adequate spokesperson or advocate for the interests of the faculty and academic staff.

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